

§ 20-286. Definitions.

The following definitions apply in this Article:

- (1), (2) Repealed by Session Laws 1973, c. 1330, s. 39.
- (2a) Dealership facilities. – The real estate, buildings, fixtures and improvements devoted to the conduct of business under a franchise.
- (2b) Designated family member. – The spouse, child, grandchild, parent, brother, or sister of a dealer, who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who under the laws of intestate succession of this State is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.
- (3) Distributor. – A person, resident or nonresident of this State, who sells or distributes new motor vehicles to new motor vehicle dealers in this State, maintains a distributor representative in this State, controls any person, resident or nonresident, who in whole or in part offers for sale, sells or distributes any new motor vehicle to any motor vehicle dealer in this State.
- (4) Distributor branch. – A branch office maintained by a distributor for the sale of new motor vehicles to new motor vehicle dealers, or for directing or supervising the distributor's representatives in this State.
- (5) Distributor representative. – A person employed by a distributor or a distributor branch for the purpose of selling or promoting the sale of new motor vehicles or otherwise conducting the business of the distributor or distributor branch.
- (5a) Established office. – An office that meets the following requirements:
 - a. Contains at least 96 square feet of floor space in a permanent enclosed building.
 - b. Is a place where the books, records, and files required by the Division under this Article are kept.
- (6) Established salesroom. – A salesroom that meets the following requirements:
 - a. Contains at least 96 square feet of floor space in a permanent enclosed building.
 - b. Displays, or is located immediately adjacent to, a sign having block letters not less than three inches in height on contrasting background, clearly and distinctly designating the trade name of the business.
 - c. Is a place at which a permanent business of bartering, trading, and selling motor vehicles will be carried on in good faith on an ongoing basis whereby the dealer can be contacted by the public at reasonable times.
 - d. Is a place where the books, records, and files required by the Division under this Article are kept.

The term includes the area contiguous to or located within 500 feet of the premises on which the salesroom is located. The term does not include a tent, a temporary stand, or other temporary quarters. The minimum area requirement does not apply to any place of business lawfully in existence and duly licensed on or before January 1, 1978.

- (7) Factory branch. – A branch office, maintained for the sale of new motor vehicles to new motor vehicle dealers, or for directing or supervising the factory branch's representatives in this State.
- (8) Factory representative. – A person employed by a manufacturer or a factory branch for the purpose of selling or promoting the sale of the manufacturer's motor vehicles or otherwise conducting the business of the manufacturer or factory branch.
- (8a) Franchise. – A written agreement or contract between any new motor vehicle manufacturer, and any new motor vehicle dealer which purports to fix the legal rights and liabilities of the parties to such agreement or contract, and pursuant to which the dealer purchases and resells the franchised product or leases or rents the dealership premises.
- (8b) Franchised motor vehicle dealer. – A dealer who holds a currently valid franchise as defined in G.S. 20-286(8a) with a manufacturer or distributor of new motor vehicles, trailers, or semitrailers.
- (8c) Good faith. – Honesty in fact and the observation of reasonable commercial standards of fair dealing as defined and interpreted in G.S. 25-1-201(b)(20).
- (8d) Independent motor vehicle dealer. – A dealer in used motor vehicles.
- (8e) Manufacturer. – A person, resident or nonresident, who manufactures or assembles new motor vehicles, or who imports new motor vehicles for distribution through a distributor, including any person who acts for and is under the control of the manufacturer or assembler in connection with the distribution of the motor vehicles. Additionally, the term "manufacturer" shall include the terms "distributor" and "factory branch."
- (9) Repealed by Session Laws 1973, c. 1330, s. 39.
- (10) Motor vehicle. – Any motor propelled vehicle, trailer or semitrailer, required to be registered under the laws of this State. This term does not include mopeds, as that term is defined in G.S. 20-4.01.
 - a. "New motor vehicle" means a motor vehicle that has never been the subject of a completed, successful, or conditional sale that was subsequently approved other than between new motor vehicle dealers, or between a manufacturer and a new motor vehicle dealer of the same franchise. For purposes of this subdivision, the use of a new motor vehicle by a new motor vehicle dealer for demonstration or service loaner purposes does not render the new motor vehicle a used motor vehicle, notwithstanding (i) the commencement of the manufacturer's original warranty as a result of the franchised dealer's use of the vehicle for demonstration or loaner purposes, or (ii) the dealer's receipt of incentive or warranty compensation or other reimbursement or consideration from a manufacturer, factory branch, distributor, distributor branch or from a third-party warranty, maintenance, or service contract company relating to the use of a vehicle as a demonstrator or service loaner.
 - b. "Used motor vehicle" means a motor vehicle other than a motor vehicle described in sub-subdivision a. of this subdivision.
- (11) Motor vehicle dealer or dealer. –
 - a. A person who does any of the following:
 - 1. For commission, money, or other thing of value, buys, sells, or exchanges, whether outright or on conditional sale, bailment lease, chattel mortgage, or otherwise, five or more motor

- vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
2. On behalf of another and for commission, money, or other thing of value, arranges, offers, attempts to solicit, or attempts to negotiate the sale, purchase, or exchange of an interest in five or more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
 3. Engages, wholly or in part, in the business of selling new motor vehicles or new or used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by that person, and sells five or more motor vehicles within any 12 consecutive months.
 4. Offers to sell, displays, or permits the display for sale for any form of compensation five or more motor vehicles within any 12 consecutive months.
 5. Primarily engages in the leasing or renting of motor vehicles to others and sells or offers to sell those vehicles at retail.
- b. The term "motor vehicle dealer" or "dealer" does not include any of the following:
1. Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.
 2. Public officers while performing their official duties.
 3. Persons disposing of motor vehicles acquired for their own use or the use of a family member, and actually so used, when the vehicles have been acquired and used in good faith and not for the purpose of avoiding the provisions of this Article.
 4. Persons who sell motor vehicles as an incident to their principal business but who are not engaged primarily in the selling of motor vehicles. This category includes financial institutions who sell repossessed motor vehicles and insurance companies who sell motor vehicles to which they have taken title as an incident of payments made under policies of insurance, and auctioneers who sell motor vehicles for the owners or the heirs of the owners of those vehicles as part of an auction of other personal or real property or for the purpose of settling an estate or closing a business or who sell motor vehicles on behalf of a governmental entity, and who do not maintain a used car lot or building with one or more employed motor vehicle sales representatives.
 5. Persons manufacturing, distributing or selling trailers and semitrailers weighing not more than 2,500 pounds unloaded weight.
 6. A licensed real estate broker or salesman who sells a mobile home for the owner as an incident to the sale of land upon which the mobile home is located.
 7. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.

8. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of motor vehicles owned by others.
 9. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.
 10. Any real property owner who leases any interest in property for use by a dealer.
 11. Any person acquiring any interest in a motor vehicle for a family member.
 12. Any auctioneer licensed pursuant to Chapter 85B of the General Statutes employed to be an auctioneer of motor vehicles for a licensed motor vehicle dealer, while conducting an auction for that dealer.
 13. Any charitable organization operating under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) where the vehicle was donated to the charitable organization solely for purposes of resale by the charitable organization.
- (12) Motor vehicle sales representative or salesman. – A person who is employed as a sales representative by, or has an agreement with, a motor vehicle dealer or a wholesaler to sell or exchange motor vehicles.
- (13) New motor vehicle dealer. – A motor vehicle dealer who buys, sells or exchanges, or offers or attempts to negotiate a sale or exchange of an interest in, or who is engaged, wholly or in part, in the business of selling, new or new and used motor vehicles.
- (13a) Person. – Defined in G.S. 20-4.01.
- (13b) Relevant market area or trade area. – The area within a radius of 20 miles around an existing dealer or the area of responsibility defined in the franchise, whichever is greater; except that, where a manufacturer is seeking to establish an additional new motor vehicle dealer the relevant market area shall be as follows:
- a. If the population in an area within a radius of 10 miles around the proposed site is 250,000 or more, the relevant market area shall be that area within the 10 mile radius; or
 - b. If the population in an area within a radius of 10 miles around the proposed site is less than 250,000, but the population in an area within a radius of 15 miles around the proposed site is 150,000 or more, the relevant market area shall be that area within the 15 mile radius; or
 - c. Except as defined in subparts a. and b., the relevant market area shall be the area within a radius of 20 miles around an existing dealer.
- In determining population for this definition the most recent census by the U.S. Bureau of the Census or the most recent population update either from Claritas Inc. or other similar recognized source shall be accumulated for all census tracts either wholly or partially within the relevant market area. In accumulating population for this definition, block group and block level data shall be used to apportion the population of census tracts which are only partially within the relevant market area so that population outside of the applicable radius is not included in the count.
- (14) Repealed by Session Laws 1973, c. 1330, s. 39.
- (15) Retail installment sale. – A sale of one or more motor vehicles to a buyer for the buyer's use and not for resale, in which the price thereof is payable in one

or more installments over a period of time and in which the seller has either retained title to the goods or has taken or retained a security interest in the goods under a form of contract designated as a conditional sale, bailment lease, chattel mortgage or otherwise.

- (16) Used motor vehicle dealer. – A motor vehicle dealer who buys, sells or exchanges, or offers or attempts to negotiate a sale or exchange of an interest in, or who is engaged, wholly or in part, in the business of selling, used motor vehicles only.
- (17) Wholesaler. – A person who sells or distributes used motor vehicles to motor vehicle dealers in this State, has a sales representative in this State, or controls any person who in whole or in part offers for sale, sells, or distributes any used motor vehicle to a motor vehicle dealer in this State. The provisions of G.S. 20-302, 20-305.1, and 20-305.2 that apply to distributors also apply to wholesalers. (1955, c. 1243, s. 2; 1967, c. 1126, s. 1; c. 1173; 1973, c. 1330, s. 39; 1977, c. 560, s. 1; 1983, c. 312; c. 704, ss. 2, 3, 21; 1987, c. 381; 1991, c. 527, s. 1; c. 662, s. 1; 1991 (Reg. Sess., 1992), c. 819, s. 23; 1993, c. 331, s. 1; 1995, c. 234, s. 1; 1997-456, s. 27; 2003-254, s. 1; 2003-265, s. 1; 2005-409, s. 7; 2007-484, s. 6; 2015-125, s. 8; 2015-209, s. 1; 2015-232, s. 1.2; 2015-264, s. 42(a); 2018-43, s. 3.)